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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,259	11/01/2001	Toshikazu Takase	116-011833	3750

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EXAMINER

CROSS, LATOYA I

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/004,259

Applicant(s)

TAKASE ET AL.

Examiner

LaToya I. Cross

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 9-11, 18-20, 26 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-17 and 21-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicants' election, without traverse, of group I, claims 1-8, 12-17 and 21-25 in the paper dated October 18, 2004 is acknowledged. Claims 9-11, 18-20, 26-32 are withdrawn from consideration as being directed to non-elected subject matter.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejection under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4-8, 12-17, 21-25 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 6,019,945 to Ohishi et al.

Ohishi et al teach a sample analysis system. The system comprises a sample rack (1) to accommodate multiple samples. Sampling lines 4A, 4B, 4C are provided for moving the sample container holder to its sample pipetting position (equivalent to the claimed sample container supply means). For sample aspirating/dispensing means, Ohishi et al teach sample pipetter (48a), which aspirates a predetermined amount of sample on sample rack (1) into reactor (46a), col. 6, lines 9-12. A temperature adjustment means, as recited in claim 4, is provided into the reactor section 5B. A first reagent from reagent bottle (12A) is dispensed into the reactor. A second reagent from reagent bottle (12B) is also dispensed into the reactor. Ohishi et al further teach stirrers (13A, 65, 67). The reactor is rotated and a light is allowed to pass through the reactor for measuring the reactions in the reactor. After analysis, the reactors are cleaned by

cleaning mechanism (19b). Ohishi et al teach that a host control computer (4) executes the required processing and controls.

3. Claims 1-8, 12-17, 21-25 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 4,835,707 to Amano et al.


Amano et al teach an automatic analysis method and apparatus. The apparatus comprises a sample rack (2) for retaining sample tubes. The sample tubes are held by chuck (9), wherein the sample tube is carried to each of the individual stations. At col. 9, lines 55 – col. 10, line 9, Amano et al teach a dilution dispenser (22), a sampling pipetter (23) and reaction mixture dispensers (25A, 25B, 25C). The sampling pipetter (23) is equivalent to Applicants' claimed sample aspirating/dispensing means. The apparatus also comprises an ultrasonicator, magnetic stirrer (41) and a heater with a temperature controller (4a). As a solvent dispensing means, Amano et al teach solvent adding apparatuses (5, 6, 7), which add solvents of different kinds to the sample tubes (col. 7, lines 60-67). Amano et al further teaches that analysis of the sample takes place by HPLC (col. 3, lines 53-65). The entire apparatus is controlled by computer (13).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaToya I. Cross whose telephone number is 571-272-1256. The Examiner can normally be reached on Monday-Friday 8:30 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published application is available through Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700